

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**KAZIMIERZ RUTOWICZ,**

**Plaintiff,**

**v.**

**No. 13-cv-0729 SMV/CEG**

**PILOT TRAVEL CENTERS, LLC,**

**Defendant.**

**ORDER**

THIS MATTER is before the Court on Plaintiff's Response to Order to Show Cause [Doc. 7], filed on December 30, 2013. After reviewing the Response, the Court will quash the Order to Show Cause [Doc. 3], vacate the show-cause hearing on January 8, 2014, and extend the deadline for Defendant to respond to the Complaint to March 31, 2014.

Plaintiff filed his Complaint on August 8, 2013. [Doc. 1] at 1. Pursuant to Fed. R. Civ. P. 4(m), Plaintiff had 120 days from filing the Complaint—or until December 6, 2013—within which to effect service of process. By December 9, 2013, there was no indication on the record that service of process has been effected, and the Court ordered Plaintiff to show cause no later than December 30, 2013, why the case should not be dismissed without prejudice for lack of service. On December 30, Plaintiff filed an affidavit, indicating that Defendant had been served on August 9, 2013, but offered nothing further. [Doc. 4]. Accordingly, the Court set a hearing on the Order to Show Cause for January 8, 2014. [Doc. 5]. Thereafter, Plaintiff filed a more complete response to the Order to Show Cause. [Doc. 7]. He explained that the parties had agreed to an “open extension of time in which to Answer the Complaint” in order to facilitate

settlement. *Id.* at 1. Although the time period is not entirely clear, it appears that Plaintiff requests that Defendant not be required to respond to the Complaint for another 90 days in order to continue settlement negotiations. The Court will grant the request and encourage the parties to diligently work toward settlement. An “open extension of time” is not permissible under the Rules, *see, e.g.*, Fed. R. Civ. P. 16(b) (mandating the setting of scheduling deadlines), and therefore, no further extensions will be granted absent extraordinary cause.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that the Order to Show Cause [Doc. 3] is **QUASHED**.

**IT IS FURTHER ORDERED** that the telephonic show-cause hearing on January 8, 2014, is **VACATED**.

**IT IS FURTHER ORDERED** that the deadline for Defendant to respond to the Complaint is extended to **March 31, 2014**.

**IT IS SO ORDERED.**



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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**